

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION



DORIS HOOD)
Plaintiff)
v.)
AMEDISYS, INC.,)
AMEDISYS HOLDING, LLC,)
AMEDISYS MISSISSIPPI, LLC,)
and JOHN DOES 1-10)
Defendants)

CIVIL ACTION NO. 3:12CV622HTW-LRA

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendants Amedisys, Inc., Amedisys Holding, LLC, and Amedisys Mississippi, LLC, by and through their undersigned counsel, file this Notice of Removal of the civil action styled *Doris Hood vs. Amedisys, Inc., Amedisys Holding, LLC, Amedisys Mississippi, LLC, and John Does 1-10*, Civil Action No. 2012-201, from the Circuit Court of Simpson County, Mississippi, to the United States District Court for the Southern District of Mississippi, Jackson Division. In support of this Notice of Removal, Defendants Amedisys, Inc., Amedisys Holding, LLC, and Amedisys Mississippi, LLC, state the following:

1. Plaintiff Doris Hood ("Hood") commenced this civil action in the Circuit Court of Simpson County, Mississippi, by filing a complaint against Defendants Amedisys, Inc., Amedisys Holding, LLC, and Amedisys Mississippi, LLC (collectively hereafter "Amedisys"),

on June 27, 2012.

2. In her complaint, Hood seeks compensatory and punitive damages from Amedisys allegedly arising out of a tort and personal injuries to Hood.

3. On August 9, 2012, Hood achieved service of process on Amedisys, Inc., by serving Celeste Peiffer, one of its agents for service of process, at 5959 S. Sherwood Blvd., Baton Rouge, Louisiana 70816. A copy of all process and pleadings served on Amedisys, Inc., in this civil action is attached as Exhibit "A" hereto. On that same day, August 9, 2012, Hood achieved service of process on Amedisys Holding, LLC, and Amedisys Mississippi, LLC, by service on CT Corporation, their agent for service of process.

4. Defendant Amedisys, Inc., is a corporation which was organized and incorporated in the State of Louisiana, and it joins and consents to the removal of this civil action.

5. Defendant Amedisys Holding, LLC, is a limited liability company which was organized and incorporated in the State of Louisiana, and it joins and consents to the removal of this civil action.

6. Defendant Amedisys Mississippi, LLC, is a corporation which was organized and incorporated in the State of Mississippi, and it joins and consents to the removal of this civil action.

7. Plaintiff Doris Hood is an adult resident citizen of the State of Tennessee.

8. It is apparent that the amount in controversy requirement is met because the complaint seeks to recover punitive damages. *See Exhibit "A", Complaint at ¶ 25.* "[F]ederal courts in Mississippi have consistently held that a claim for an unspecified amount of punitive damages under Mississippi law is deemed to exceed the amount of controversy for federal

jurisdiction." *Brasell v. Unumprovident Corp.*, No. 2:01-cv202, 2002 WL 1530342 at *2 (N.D. Miss. Oct. 25, 2001), citing *inter alia*, *St. Paul Reinsurance Co., Ltd. v. Greenberg*, 134 F.3d 150, 153 (5th Cir. 1998).

9. Diversity of citizenship exists because Plaintiff Doris Hood is a resident of the State of Tennessee, and none of the Defendants, Amedisys, Inc., Amedisys Holding, LLC, or Amedisys Mississippi, LLC, is a resident of the State of Tennessee.

10. Pursuant to 28 U.S.C. § 1332, the district court has original jurisdiction of this civil action because it is between citizens of different states, and the amount in controversy exceeds \$75,000 exclusive of interest and costs.

11. Defendants Amedisys, Inc., Amedisys Holding, LLC, and Amedisys Mississippi, LLC, now remove this civil action from the Circuit Court of Simpson County, Mississippi, to this Court pursuant to the diversity jurisdiction of 28 U.S.C. § 1332(a) because the matter in controversy exceed \$75,000.00, exclusive of interest and costs, and this civil action is between citizens of different states.

12. Venue is proper in this district under 28 U.S.C. § 1441(a) because the Circuit Court of Simpson County, Mississippi, the state court where this civil action is pending, is located within this Court's district and division. *See* 28 U.S.C. §§ 1446(a), 104(a)(1).

13. This removal is timely filed pursuant to 28 U.S.C. § 1446(b).

14. The Plaintiff has named John Does 1 through 10 as additional defendants. For removal purposes, however, the citizenship of a defendant sued under a fictitious name is not considered. *Doleac ex rel. Doleac v. Michalson*, 264 F.3d 470, 475 (5th Cir. 2001) (quoting 28 U.S.C. § 1441(a) which states, "For purposes of removal, . . . the citizenship of defendants sued

under fictitious names shall be disregarded.").

15. Defendants Amedisys, Inc., Amedisys Holding, LLC, and Amedisys Mississippi, LLC, by and through their undersigned counsel, join and consent to the removal of this civil action from the Circuit Court of Simpson County, Mississippi, to the United States District Court for the Southern District of Mississippi, Jackson Division.

16. For the reasons stated above, this Court has diversity jurisdiction pursuant to 28 U.S.C. § 1332, and removal is proper under §§ 1441 and 1446.

17. In accordance with 28 U.S.C. § 1446(d), the Circuit Court of Simpson County, Mississippi, and Plaintiff's counsel have this day been given written notice of the filing of this Notice of Removal.

WHEREFORE, Amedisys, Inc., Amedisys Holding, LLC, and Amedisys Mississippi, LLC, request that the above-captioned civil action now pending in the Circuit Court of Simpson County, Mississippi, be removed to the United States District Court for the Southern District of Mississippi, Jackson Division, and the District Court assume jurisdiction over this civil action.

RESPECTFULLY SUBMITTED, this the 6th day of September, 2012.

**AMEDISYS, INC., AMEDISYS HOLDING,
LLC, and AMEDISYS MISSISSIPPI, LLC**

By their Attorneys,
SIMMONS LAW GROUP, P.A.

BY:

DOUGLAS G. MERCIER (MSB No. 9510),
Attorney for Defendants, Amedisys, Inc., Amedisys
Holding, LLC and Amedisys Mississippi, LLC

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CERTIFICATE OF SERVICE

I, the undersigned attorney, certify that I have this day caused a true and correct copy of the foregoing *Notice of Removal* to be delivered via United States mail, postage prepaid, to the following:

Shane F. Langston, Esq.
Rebecca M. Langston, Esq.
Jessica E. Murray, Esq.
John B. Hunt, IV, Esq.
LANGSTON & LANGSTON, PLLC
201 North President Street
Jackson, Mississippi 39201

THIS the 6th day of September, 2012.


DOUGLAS G. MERCIER (MSB No. 9510)

OF COUNSEL:

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